

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Corporate Services Corporate & Efficient Governance Committee : 22 June 2011

Subject: Discretionary Relief of Non-Domestic Rates - Hardship

1. Purpose

- 1.1** The purpose of this report is to apprise Committee of an application received for the relief of non-domestic rates on the grounds of hardship and to make recommendations regarding the award.

2. Background

- 2.1** Under Section 156 of The Local Government (Scotland) Act 1994, the Council has the power to reduce the amount of non-domestic rates a person is liable to pay provided the Council is satisfied that:

1. The ratepayer would sustain hardship if the authority did not grant relief; and
2. it is reasonable for the Council to grant relief having due regard to the interests of the local council tax payers

- 2.2** The Council is required to fund 25% of the value of hardship relief granted and any relief granted can only be granted for the current financial year. Relief for any future years would require a further application next year.

- 2.3** In October 2000, Council agreed that all hardship relief applications are submitted to Members for consideration.

- 2.4** The Corporate and Efficient Governance Committee received an application for relief of non-domestic rates on the grounds of hardship from Baird Lends A Hand Ltd in August 2010. Committee agreed to refuse the application and requested that officers work with the applicant regarding a deferred payment scheme.

- 2.5** Mr Baird has not been able to keep to the deferred payment arrangement and has requested that his application for hardship relief be re-submitted to Committee for further consideration.

3. Main Issues

- 3.1** Following on from the decision of Committee in August of last year, officers from the Finance & ICT service met with Mr Baird and agreed a rates deferment plan. The rates liability for 2010/11 was frozen until 31 December 2010 and a repayment schedule put in place to recover the balance outstanding. At present Mr Baird has kept his payments for 2011/12 up to date but has yet to pay any money toward his 2010/11.

- 3.2** At a review meeting held with Mr Baird earlier this year he requested that his application for full relief from the 2010/11 rates liability be reconsidered by Committee. The trading position of the business has improved since August in line with Mr Baird's forecast. He has recruited 3 additional employees and the business is no longer operating at a loss. However, approximately £70,000 of reserves were utilised during the intervening period to keep the business afloat.
- 3.3** The test of hardship need not be restricted to financial hardship as the interests of the local community may go wider than direct financial interests e.g. where the closure of a business would affect local employment prospects or result in the loss of an amenity to an area.
- 3.4** In addition, due consideration should be taken when assessing applications as relief should not be used to allow an otherwise insolvent business to continue to trade at the expense of the local taxpayers or give one business a commercial advantage over comparable organisations.
- 3.5** The company has a rates liability for 2010/11 of £29,486.99. The award of full hardship relief would cost the Council £7,371.75. There is no budgetary provision for this expenditure.
- 3.6** Using the criteria set out above, it can be argued that Mr Baird would sustain hardship if the relief is not granted and the closure of the business would impact upon the 5 current employees. However Committee has to balance these views with the argument that all businesses were trading under the same prevailing economic conditions and would the relief of rates present a commercial advantage to this business over comparable organisations operating in the same market sector.

4. Personnel Issues

- 4.1** There are no Personnel issues associated with this report.

5. Financial Implications

- 5.1** The Council contribution toward discretionary relief of rates on the grounds of hardship would be £7,371.75. There is no provision in the general services budget for this expenditure.

6. Risk Analysis

- 6.1** The Council has to consider if the ratepayer would sustain hardship if the relief was not granted and if the award of relief is in the greater interests of the local tax payers. Failure to take due consideration of these factors could leave the Council open to challenge. In addition there is the potential for an increase in future applications should this case be quoted as a precedent.

7. Equalities, Health & Human Rights Impact Assessment

- 7.1** No significant issues were identified in a screening for potential equality impact of this measure.

8. Conclusions and Recommendations

- 8.1** The award of relief would cost the Council £7,371.75. There is no provision in the general services budget for this expenditure.
- 8.2** The trading position of the company has improved since August last year and the company is now meeting its ongoing rates liability. A further extension of the rates deferment for the 2010/11 liability of £29,486.99 could be granted to allow more time to pay.
- 8.3** It is recommended that no relief is granted.

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Date: 27 May 2010

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Appendices: None

Background Papers: Discretionary Relief of Non-Domestic Rates – Hardship
Corporate & Efficient Governance Committee
25 August 2010

Wards Affected: All